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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,824	05/14/2001	Kristin J. Godbey	56466USA.002	9149
32692	7590	05/05/2004	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			HOWARD, SHARON LEE	
			ART UNIT	PAPER NUMBER

1615

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/854,824

Applicant(s)

GODBEY ET AL.

Examiner

Sharon L. Howard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

04/27/04

- 1) ☒ Responsive to communication(s) filed on 1/12/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Claims 1 and 15 are currently amended.

Claims 1-39 are pending in this application.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 112***

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 is confusing because no active agent is listed. Glitter, ornamental design, mask, appliqué and tattoo do not represent conventional active agents.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18,20-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Duan et al. (U.S. Patent No. 5,276,079).

Duan teaches pharmaceutical delivery devices employing hydrophilic, pressure-sensitive adhesive composition which is useful for delivering active agents to or through the skin (see col.12, lines 60-68). Duan teaches that the composition comprises a layer of a pressure sensitive composition adhesive coated on a backing material, and protected until use by a release liner (see Fig. 3 and col.12, lines 5-21), can be applied to the skin as a wound dressing or as a bandage (see col.8, lines 34-37 and col.12,

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lines 16-21). Duan teaches that an antimicrobial agent, for example, chlorhexidine gluconate (see col.8, lines 50-53) is contained in the adhesive layer, is added also to a plasticizer (see col.12, lines 9-12). The backing layer can be made of polyethylene or ethylene-vinyl acetate copolymer material (see col.13, lines 10-17), and the release liner which can be defined as the support layer, can be made of a polymeric film such as siliconized polyethylene terephthalate films (see col.13, lines 18-24). The adhesive composition which is coated onto the backing layer, comprises a polymer such as poly(N-vinyl lactam) in a solid form which can be a non-crosslinked homopolymer or a noncrosslinked copolymer containing N-vinyl lactam monomers such as acrylic acid, acrylamide or N-vinyl-2-pyrrolidone (see col.5, lines 47-68, bridging col.6, lines 1-32), and also a plasticizer such as monohydric alcohols, polyhydric alcohols, for example glycerin (see col.7, lines 24-26), or polyethylene glycol (see col.7, lines 11-18) is also included in the composition.

The prior art meets the claims of the instant application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18,20-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Duan ('079) reference.

Duan is applied above.

Duan does not particularly teach a substantially water-soluble carrier.

However, the reference does teach a hydrophilic, pressure-sensitive adhesive composition comprising a poly(N-vinyl lactam) in a solid form and a plasticizer (see col.5, lines 27-32).

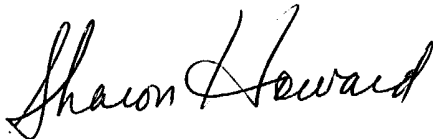
It would have been obvious to one of ordinary skill in the art at the time the invention was made use the Duan reference. One having ordinary skill in the art would have been motivated to prepare the composition of Duan, because Duan teaches a device which is known for the purpose of delivering active agents to or through the skin.

The expected result would be a device comprising a pressure-sensitive adhesive composition which comprises a polymer and a plasticizer.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Howard whose telephone number is (571) 272-0596. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Howard  
April 19, 2004



THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
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